

8:30A

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

ERNESTO SANTOS,

Plaintiff,

v.

COUNTRY MUTUAL INSURANCE  
COMPANY,

Defendant.

Case No.: 14C14355

**SUMMONS**

TO: Country Mutual Insurance Company, c/o CT Corporation System, Registered Agent,  
388 State Street, Suite 420, Salem, Oregon 97301

**SUMMONS**

*You are hereby required to appear and defend the complaint filed against you in the above entitled cause within thirty (30) days from the date of service of this Summons upon you, and in case of your failure to do so, for want thereof, Plaintiff will apply to the court for the relief demanded in the Complaint.*

**NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY**

You must "appear" in this case or the other side will win automatically. To "appear", you must file with the court a legal paper called a "motion" or "answer". The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the Plaintiff's attorney or, if the Plaintiff does not have an attorney, proof of service upon the Plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org), or by calling (503)684-3763 (in the Portland Metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

BRADY MERTZ, PC

Brady Mertz, OSB #970814  
Attorney for the Plaintiff


I - SUMMONS

**Brady Mertz, PC**  
2285 Liberty St. NE, Salem, OR 97301  
Phone (503) 385-0121  
Fax: (503) 375-2218  
Email: [brady@bradymertz.com](mailto:brady@bradymertz.com)

1 STATE OF OREGON )  
2 County of Marion ) ss.

3 *I, the undersigned attorney of record for the Plaintiff, certify that the foregoing in an*  
4 *exact and complete copy of the original summons in the above entitled case.*

5 BRADY MERTZ, PC

6   
7 Brady Mertz, OSB #970814  
8 ATTORNEY OF RECORD FOR PLAINTIFF

9 \*\*\*\*\*

10 *TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby*  
11 *directed to serve a true copy of this Summons, together with a true copy of the Complaint*  
12 *mentioned therein, upon the Defendant, and to make your proof of service which you shall attach*  
13 *hereto.*

14 BRADY MERTZ, PC

15   
16 Brady Mertz, OSB #970814  
17 ATTORNEY OF RECORD FOR PLAINTIFF

TRUE COPY  
BHM

RECEIVED  
APR 15 2014  
Marion County Circuit Court

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR MARION COUNTY

ERNESTO SANTOS,

Plaintiff,

v.

COUNTRY MUTUAL INSURANCE  
COMPANY,

Defendants.

Case No.

14C14355

COMPLAINT (Personal Injury; Breach  
of Contract)

NOT Subject to Mandatory Arbitration

Jury Trial Requested

Claim for \$250,000.00

ORS 21.160(1)(c) (\$531.00)

Plaintiff Ernesto Santos alleges:

PLAINTIFF'S CAUSE OF ACTION

(Breach of Contract)

1.

At all times material herein, defendant Country Mutual Insurance Company (hereinafter Country Mutual) was an auto insurance company licensed to do business in Oregon.

2.

On Tuesday, April 19, 2011, Plaintiff Ernesto Santos was driving a mid-size 1990 International Dump Truck westbound on Hazel Green Road at the intersection with Howell Prairie Road near Silverton, Marion County, Oregon. Plaintiff stopped at the intersection, yielding for other cars to pass through. At the same time, Kyle Buntjer was traveling at

1 approximately 70 miles per hour northbound on Howell Prairie Road, when suddenly and  
 2 without warning he drove his 1993 Geo metro through the intersection, turning right from Howell  
 3 Prairie Road onto Hazel Green Road going eastbound. Mr. Buntjer then crossed the traffic line  
 4 from the right side of the road to the left side on Hazel Green Road, striking Mr. Santo's delivery  
 5 truck broadside and on the front left wheel. Mr. Santos' trailer was filled with trees at the time his  
 6 truck was t-boned at high speed by Mr. Buntjer's vehicle.

7  
 8 3.

9 The proximate cause of said collision was the negligent conduct of Buntjer in one or  
 10 more of the following particulars:

- 11 a. Failing to keep a proper lookout;  
 12 b. Failing to maintain his vehicle under reasonable control;  
 13 c. In failing to stop, swerve, or otherwise avoid colliding with plaintiff's automobile; or  
 14 d. In failing to drive at a speed reasonable and prudent under the circumstances then and  
 15 there existing.

16  
 17 4.

18 As a direct and proximate result of the negligence of Buntjer, plaintiff suffered from and  
 19 continues to suffer from left wrist sprain, left wrist non-displaced mid scaphoid fracture,  
 20 lumbosacral strain, cervical strain conditions, and sleepless nights.

21  
 22 5.

23 As a direct and proximate result of Buntjer's negligence, aforementioned injuries caused  
 24 and will continue to cause plaintiff severe pain and suffering, interference with his normal  
 25 activities to his general, non-economic damages in an amount the jury determines to be fair, but  
 26 not to exceed \$250,000.00, and Plaintiff has sustained and will continue to sustain past and  
 future medical expenses in the sum of approximately \$30,000 to his economic damages.

6.

Country Mutual policy AA4077564 (hereinafter "Country Mutual policy") was in force on April 19, 2011 and provided underinsured motorist coverage to plaintiff with coverage in the amount of \$250,000.

7.

On April 19, 2011, Buntjer had liability insurance coverage of \$25,000. With the consent of Country Mutual, Plaintiff settled his claim against Buntjer for policy limits of \$25,000.00. Plaintiff then timely requested arbitration of the underinsured benefits matter with Country Mutual. Country Mutual has denied arbitration claiming that arbitration was not requested by Plaintiff timely. Country Mutual has also failed to pay to the Plaintiff any underinsured motorist benefits.

8.

Plaintiff has performed his obligations required by the Country Mutual policy.

9.

Defendant Country Mutual has breached its obligations under the Country Mutual policy by failing to pay plaintiff underinsured motorist benefits in the amount of \$250,000.00 and by failing to allow arbitration pursuant to the Country Mutual policy.

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10.


Plaintiff is entitled to recover reasonable attorney fees from Country Mutual based on  
ORS § 742.061.

WHEREFORE, plaintiff prays for relief as follows:

1. A judgment in favor of plaintiff and against defendant;
2. For non-economic damages in an amount the jury determines to be fair, but not to exceed \$250,000.00 (with a credit of \$25,000 for the underlying settlement with Buntjer);
3. For plaintiff's costs and disbursements incurred herein;
4. Pursuant to ORS § 742.061, reasonable attorney fees.

DATED this 11<sup>th</sup> day of April, 2014.

BRADY MERTZ, PC.

By   
Brady Mertz, OSB #970814  
Attorney for Plaintiff